LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

301 State House
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FISCAL IMPACT STATEMENT

LS 7133 | **NOTE PREPARED:** Jan 17, 2004
BILL NUMBER: HB 1273 | **BILL AMENDED:**

SUBJECT: ICHIA Amendments.

FIRST AUTHOR: Rep. Fry | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL** | **IMPACT:** State
X **DEDICATED**
FEDERAL

Summary of Legislation: This bill amends the Indiana Comprehensive Health Insurance Association (ICHIA) law concerning: (1) membership; (2) premium rates; (3) assessments; (4) tax credits; (5) reporting requirements; and (6) member grievances. The bill makes technical corrections and conforming amendments. It repeals a section requiring annual reporting concerning tax credits. This bill also makes an appropriation.

Effective Date: January 1, 2004 (retroactive); July 1, 2004; January 1, 2005.

Explanation of State Expenditures:

Payment of ICHIA Net Losses. The bill provides that, beginning in CY 2005, when ICHIA determines net losses for purposes of calculating assessments on members, ICHIA may not include the expenses of administration and any loss incurred due to claims paid under an ICHIA policy for health care services provided to an insured in excess of $1.5 M during the insured's lifetime. ICHIA must assess members 40% of net losses plus 100% of the expenses of ICHIA administration. The Department of Insurance must pay 60% of net losses plus 100% of expenses that ICHIA incurs for health care services provided to an insured in excess of $1.5 M during the insured's lifetime.

Also beginning in CY 2005, ICHIA members will no longer be able to claim an income or premium tax credit for assessments paid to ICHIA.

The impact of this provision will depend on future ICHIA expenses. However, based on 2002 statistics, the following illustration of the impact is provided.

Assessments for 2002 equaled $66.73 M. Expenses of administration equaled $5 M. (Administrative expenses can vary considerably from year and year. For example, over $1.4 M in expenses for 2002 were due to ICHIA litigation regarding the HMOs' and stop-loss carriers' refusal to pay assessments.) With respect to losses incurred due to claims paid for health care services for insured individuals with claims in excess of $1.5 M during the insured's lifetime, expenses equaled $15.9 M for 2002.

Total administrative expenses plus expenses for claims paid for health care services in excess of $1.5 M for 2002 equaled $20.9 M. Under the proposal, net losses which equaled $66.73 M would be reduced by $20.9 M. Based on the above figures, net losses would equal $45.83 M ($66.73 M minus $20.9 M).

The proposal provides that 40% of any net loss, or $18.33 M (40% of $45.83 M), plus 100% of the expenses of administration of the association, or $5 M for 2002, for a total of $23.33 M, must be assessed by ICHIA to all members in proportion to their respective shares of total health insurance premiums. In the case of 2002, the assessments, which equaled $66.73 M, could have been taken as tax credits by the members. Under the proposal, the members would pay 40% plus administration expenditures, or $23.33 M. However, they would not receive tax credits on the amount paid after January 1, 2005. They will be able to factor these costs into their premiums. Members have until December 31, 2009, to use up their stockpile of credits. Because tax credits will no longer be available under the proposal, state revenues would no longer be reduced by the amount of tax credits that the members could have taken. (See *Explanation of State Revenues*.)

The proposal provides that 60% of any net loss, or $27.5 M (60% of $45.83 M), plus 100% of any loss incurred due to claims paid under an ICHIA policy for health care services provided to an insured in excess of $1.5 M during the insured's lifetime, which equaled $15.9 M, for a total of $43.4 M, must be paid by the Department of Insurance from an appropriation. ICHIA must annually certify to the Department of Insurance the amount necessary.

This bill annually appropriates from the state General Fund to the Department of Insurance an amount sufficient to pay the amount certified.

Premium Rate Calculation. The proposal provides that ICHIA premium rates may be adjusted by the percentage change in medical cost experienced by ICHIA minus the percentage change in the Indiana medical care component of the Consumer Price Index for all Urban Consumers, as published by the United States Bureau of Labor Statistics during the preceding calendar year. A positive or negative adjustment in the rate calculated may not be greater than 10%. This provision will have an impact on state expenditures to the extent that any change in premiums could change net operating losses experienced by ICHIA which could impact the amount that needs to be paid by the state. The impact will depend on ICHIA net losses.

Penalty for Late Payment. A member assessment is due not more than 30 days after the member receives written notice of the assessment. A member that pays an assessment after the due date shall pay interest on the assessment at the rate of 6% per annum. This provision will have an impact on state expenditures to the extent that any change in ICHIA revenue and net operating losses could impact the amount that needs to be paid from the state General Fund.

Appeal Procedures. If a member is aggrieved by an act of ICHIA, the member must, not more than 90 days after the act occurs, appeal to the ICHIA board of directors for review of the act. If within 30 days after an appeal is filed, the board has not acted on the appeal or a member is aggrieved by a decision of the board, the member may appeal to the Commissioner of Insurance. This provision could add administrative expenses to the Department of Insurance. It is presumed that the DOI will be able to absorb any additional expenses given its current resources and budget.

Tax Credits. ICHIA members must, not later than October 31 of each year, certify an independently audited report to ICHIA, the Legislative Council, and the Department of Insurance, that contains the amount of tax credits taken against assessments. The report to the Legislative Council must be in an electronic format. This provision expires December 31, 2010. This provision should have no impact on the Legislative Council or the Department of Insurance.

The bill also repeals IC 27-8-10-2.3 which provides that ICHIA members must report tax credits. This provision would have no direct impact on state expenditures.

Distribution of Net Gains. The proposal eliminates references to tax credits with respect to distributions made from any ICHIA net gain. This provision should have no fiscal impact. ICHIA has not had a net gain.

Explanation of State Revenues: *Tax Credits.* Beginning January 1, 2005, an ICHIA member that, before January 1, 2005, has paid an assessment and not taken a credit against taxes may take not more than 20% of the amount of the unused tax credit that exists on January 1, 2005, in each taxable year beginning January 1, 2005, and ending December 31, 2009. This provision provides members with five years in which to claim their tax credits. The Department of Insurance expects a total of $75 to $80 M in tax credits outstanding as of the end of December 31, 2002. Additional credits may be accumulated in 2003 and 2004. Based on current expected total tax credits through 2002, and given that the proposal provides that members could claim 20%, annual credits claimed could equal $16 M each year between 2005 and 2009, which would not include any additional credits accumulated in 2003 and 2004. This amount would be deducted from income and premium tax liability.

The bill gives a 5-year window to use tax credits accumulated prior to January 1, 2005. After this date, the ability to take any new tax credits is eliminated. However, members will retain the ability to factor the assessments into their premium rates. The proposal may also cause a redistribution of who pays for the losses by the members. Currently, most carriers would probably use their credits. Now, each will be assessed the 40% plus expenses of administration.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Legislative Council; Department of Insurance.

Local Agencies Affected:

Information Sources: Ann Bingman, ICHIA.

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